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Court-Appointed Chapter 11 Examiner

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF CALIFORNIA

In re

BWR, LLC,

Debtor.

CASE NO. 18-03650-MM11

EXAMINER'S THIRD REPORT

Status Conference:
Date: August 1, 2019
Time: 3:00 p.m.
Dept.: 1, Room 218

Judge: Hon. Margaret M. Mann

Richard M. Kipperman, Court-Appointed Chapter 11 Examiner, ("Examiner")
respectfully submits his Third Report. The Order Appointing Examiner requested the
Examiner take the following actions:

- Investigate the acts, conduct, assets, liabilities, and financial condition of
BWR, LLC (the "Debtor"), the operations of the Debtor's business, and the desirability
and/or feasibility of the continuance of such business, and any other matter relevant to
the case;
- Review and evaluate the pending Sale Agreement between the Debtor
and Buyer Blinding Edge One, LLC;
- Review and evaluate any other purchase offers received by the Debtor;
- Review and evaluate any refinancing offers received by the Debtor;
- Evaluate and opine as to the feasibility of selling the assets of the Debtor
after proper marketing; and
- Prepare a report regarding its investigation of the above items and opine

based on its best business judgment whether a sale, refinance, or dismissal is in the best interest of creditors and the estate.

I. Status of Potential Sale of Property

In the Examiner's Second Report, filed on May 23, 2018, the Examiner recommended that marketing and selling the Resort would be in the best interest of creditors and the Estate. Since the Second Report was filed, the Examiner and Eddie Mejorado, the Debtor's principal interviewed four brokers: Atlas Realty Group; Braun International Real Estate; Transworld Business Advisors San Diego; and Lodging Brokers Network. Following the interviews, the Examiner and Debtor received proposals from three of the brokers and decided to obtain a listing agreement from Braun International Real Estate ("Braun"), subject to Court approval.

Braun sent the Examiner a Listing Agreement. Examiner's counsel revised the Listing Agreement and drafted an Addendum, which the Examiner sent to the Debtor and its counsel to review and comment. The Examiner suggested filing a joint application for approval of the Listing Agreement and also requested the Debtor provide the most recent property tax bills from the county and its general ledger through June 30, 2019. To date, the Debtor has not provided its input on the Listing Agreement and informed the Examiner that Debtor has not been able to speak with its counsel due to counsel's illness.¹ The Examiner also believes that the Debtor is reluctant to enter into the sale process because the summer months are the slowest months for the Resort.

The Debtor continues to pursue alternative financing options and advised the Examiner that it has a loan deal in escrow, however, the Debtor has not provided any supporting documentation. The Debtor also wants to sign up with Wyndham to flag the Resort as a Ramada Inn, subject to Court approval.

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¹ After drafting this Examiner's Report, the Examiner and his counsel received a letter from Debtor's counsel, the afternoon that this Report is due, stating that "BWR has reviewed the proposed listing agreement with Braun and disagrees that it is appropriate at this time particularly at what BWR considers to be a 'fire sale' price and time frame."

1 **II. Status of Debtor's Business Operations and Financials**

2 The Examiner is informed and believes that the Debtor is current on its post-
3 petition adequate protection payments to the senior secured lender. The Debtor
4 informed the Examiner that it continues to remodel the Resort and it finished remodeling
5 three more suites and started exterior paint on all of the Resort. The Debtor also stated
6 that it is current on all bills and has lowered debt on its payroll by almost \$80,000, but
7 the Examiner has not been able to independently review the Debtor's finances.

8 As reflected in the Examiner's prior report, Sandra Mejjorado, the Debtor's events
9 and office manager resigned effective April 17, 2019 and Carmen Zamora, the
10 Debtor's bookkeeper and accountant, resigned in May. The Examiner is informed and
11 believes that the Debtor's financials are not up-to-date and despite his request, the
12 Examiner has not seen proof of funds showing the Debtor's ability to operate the Resort
13 to year end.² The Examiner requested the Debtor's general ledger through June 2019,
14 but that information has not been provided. On July 10, 2019, the Debtor filed its April
15 2019 Monthly Operating Report, so the May 2019 and June 2019 Monthly Operating
16 Reports remain outstanding.

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18 DATED: July 25, 2019

MULVANEY BARRY BEATTY LINN &
MAYERS LLP

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21 By: /s/ Kelly Ann Tran
22 Kelly Ann Tran
23 Attorneys for Richard M. Kipperman,
24 Court-Appointed Chapter 11 Examiner
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27 ² The July 25, 2019 Letter from Debtor's counsel states that after several capital contributions for Mr.
28 Mejjorado, the Debtor should have approximately \$75,000 on hand, but again, the Examiner has not seen
any supporting financial documents.